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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,655	12/05/2003	Michael J. O'Phelan	279.168US2	1280

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

TSAL, H JEY

ART UNIT	PAPER NUMBER
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2812

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/728,655

Applicant(s)

O'PHELAN ET AL.

Examiner

H.Jey Tsai

Art Unit

2812

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,36-46 and 52-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,36-46 and 52-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 7, 39, 43, 44, 45, 46 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Breyen et al. 6,795,729, previously applied.

Breyen et al. a method of joining a connection member to a foil, the method comprising:

positioning the connection member 195 and the foil 185/190 against each other, fig. 6a, 4, 5a-5c, col. 13, lines 11-67, col. 14, lines 67,

forming a cold weld between connection member 195 and the foils 185/190 by forcing the connection member and the foil together between a hardened surface 207 and a staking pin 206, 211 which has a tip of less than or equal to approximately 0.174 mm (less than 0.762 mm) in diameter (meeting claims 1 and 39), col. 14, lines 60, fig. 5a-5c,

regarding claims 2, 43, 44, 45, wherein forcing the connection member 195 and the foil 185/190 together comprises striking the foil with the staking pin and forcing the foil into the connection member, fig. 5a-5c, 4, 6a-6c,

regarding claim 7, anode layers 185, 190 are etched foil, col. 10, lines 33-64

regarding claim 46, each anode foil approximately 50-200 um, col. 10, lines 35-64.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-38, 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breyen et al. 6,795,729 in view of Greenwood, Jr. et al. 5,949,638, previously applied.

The reference(s) teach the features:

Breyen et al. teaches a method of coupling a plurality of anode connection members of a capacitor, the method comprising:

attaching an anode connection member of any shape by design choice 195, 232 to two or more of a plurality of anodes 185/190 such that a first section of the anode connection member is attached to a major surface of the two or more of a plurality of

Art Unit: 2812

anodes and a second section of the L-shaped anode connection member overhangs an edge face of the two or more of a plurality of anodes, fig. 6-11,

Note: Breyen et al. teaches at col. 9, lines 47-53, the shapes of anode layers 185, cathode layers 175 and separator is layers 180 are primarily a matter of **design choice**, and are dictated largely by the shape or configuration of case 90 within which those layers are ultimately disposed. Anode layers 185, cathode layers 175 and separator layers 180 may assume any **arbitrary shape to optimize packaging efficiency**.

positioning each of the anode connection members 195 so that each anode connection member is flush with each other anode connection member or connection members adjacent to each anode connection member,

edge-connecting each anode connection member to the anode connection member or connection members adjacent to each anode connection member directly along an exposed end face of each of the connection members, fig. 9, col. 20, lines 15-67,

regarding claim 38, edge-connecting comprises laser welding along a seam between each of the anode connection members, col. 20, lines 55-65,

regarding claim 39, wherein each of the plurality of connection members having a cut-out adapted to matchably fit within a notch on an anode, fig. 4, 9,

regarding claim 52, positioning the two or more foils in a stack, fig. 9,

forcing at least one foil comprising an etched anode foil together with one or more other anode foils, fig. 5-9, col. 2, lines 45-50, col. 3, lines 4-40,

Art Unit: 2812

wherein positioning the foils comprises stacking three etched anode foils 185/190 in a dimension perpendicular to a major surface of each of the anode foils, figs. 4, 6-9, each anode foil approximately 50-200 μm , col. 10, lines 35-47, regarding claim 53, a staking pin 206, 211 which has a tip of less than or equal to approximately 0.174 mm (less than 0.762 mm) in diameter, col. 14, lines 60, fig. 5a-5c, regarding claim 54, anode layer is a porous layer, col. 3, lines 10-15, regarding claim 54, a capacitor with several hundred volts, col. 2, lines 5-10, regarding claim 55, edge-connecting comprises laser welding along a seam between each of the anode connection members, col. 20, lines 55-65.

The difference between the references applied above and the instant claim(s) is: Breyen et al. teaches forming a cold weld between connection member 195 and the foils 185/190 by forcing the connection member and the foil together between a hardened surface 207 and a staking pin 206, 211 which has a tip of less than or equal to approximately 0.174 mm (less than 0.762 mm) in diameter but does not teach anode connection member is L shape. However, Breyen et al. teaches at col. 9, lines 47-53, the shapes of anode layers 185, cathode layers 175 and separator is layers 180 are primarily a matter of **design choice**, and are dictated largely by the shape or configuration of case 90 within which those layers are ultimately disposed. Anode layers 185, cathode layers 175 and separator layers 180 may assume any **arbitrary shape to optimize packaging efficiency**. And, Greenwood, Jr. et al. teaches at fig. 1 and col. 7, lines 35-53, a L-shape anode connection member 21 is cold welded to anode layer 11, 12...

And, specific dimension of capacitor voltage as claimed are taken to be obvious since these are variables of art recognized importance which are subject to routine experimentation and optimization and discovery of an optimum value for a known process is obvious. In re Aller, 105 USPQ 233 (CCPA 1955). And, even if applicants' modification results in great improvement and utility over the prior art, it may still not be patentable if the modification was within the capabilities of one skilled in the art, In Re Sola 25 USPQ 433.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above references' teachings with a L shaped anode connection member as taught by Greenwood Jr, et al. because L-shape anode connection member would optimize packaging efficiency.

Claim 3, 6, 40, 41, 42 are rejected under 35 U.S.C 103 as being unpatentable over Breyen et al. as applied to claims 1, 2, 7, 39, 43, 44, 45, 46 above, and further in view of Shafer et al. 4,045,644, previously applied.

The difference between the references applied above and the instant claim(s) is: Breyen et al. teaches forming a cold weld between connection member 195 and the foils 185/190 by forcing the connection member and the foil together between a hardened surface 207 and a staking pin 206, 211 which has a tip of less than or equal to approximately 0.174 mm (less than 0.762 mm) in diameter but does not teach the conical shape pin tip. However, Shafer et al. teaches at figs. 2, 4-5, 8, col. 4, lines 1-5, the pin tip 42 of a cold weld apparatus is conical shape. And, at col. 5, lines 15-20, using about 600 pound to cold weld material. And, specific dimension of pin/tip as claimed are taken to be obvious since these are variables of art recognized importance which are subject to routine experimentation and optimization and discovery of an

Art Unit: 2812

optimum value for a known process is obvious. In re Aller, 105 USPQ 233 (CCPA 1955). And, even if applicants' modification results in great improvement and utility over the prior art, it may still not be patentable if the modification was within the capabilities of one skilled in the art, In Re Sola 25 USPQ 433.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above references' teachings with a conical pin/tip as taught by Shafer et al. because conical pin/tip has more contact surfaces than a pin/tip.

Claims 4-5 are rejected under 35 U.S.C 103 as being unpatentable over Breyen et al. as applied to claims 1, 2, 7, 39, 43, 44, 45, 46 above, and further in view of Carrico 5,041,942, previously applied.

The difference between the references applied above and the instant claim(s) is: Breyen et al. teaches forming a cold weld between connection member 195 and the foils 185/190 by forcing the connection member and the foil together between a hardened surface 207 and a staking pins 206, 211 which has a tip of less than or equal to approximately 0.174 mm (less than 0.762 mm) in diameter but does not teach the distance between pins 206 and 211 and the height. However, Carrico teaches at col. 6, lines 30-54, the spacing between conical pins (teeth) a cold weld apparatus is about 0.02 inches and the height is about 6 mils (0.006 inches). And, specific spacing of pin/tip as claimed are taken to be obvious since these are variables of art recognized importance which are subject to routine experimentation and optimization and discovery of an optimum value for a known process is obvious. In re Aller, 105 USPQ 233 (CCPA 1955). And, even if applicants' modification results in great improvement and utility over the prior art, it may still not be patentable if the modification was within the capabilities of one skilled in the art, In Re Sola 25 USPQ 433.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above references' teachings with a spacing for conical pin/tip as taught by Carrico because spacing between conical pins/tips is an routine experimentation to obtain the desired strength for welding between anode tab and foils.

Claim 8 is rejected under 35 U.S.C 103 as being unpatentable over Breyen et al. as applied to claims 1, 2, 7, 39, 43, 44, 45, 46 above, and further in view of col. 3, lines 10-15 of Breyen et al. or Greenwood, Jr. et al. 5,949,638, previously applied.

The difference between the references applied above and the instant claim(s) is: Breyen et al. teaches forming a cold weld between connection member 195 and the foils 185/190 by forcing the connection member and the foil together between a hardened surface 207 and a staking pins 206, 211 which has a tip of less than or equal to approximately 0.174 mm (less than 0.762 mm) in diameter but does not teach using porous anode film. However, Breyen et al. teaches at col. 3, lines 10-15, anode layer is a porous layer and at col. 2, lines 5-10, a capacitor with several hundred volts. And, Greenwood Jr. et al. teaches at claim 10, porous anode layer of capacitor having 420 volts. And, specific capacitor voltage as claimed are taken to be obvious since these are variables of art recognized importance which are subject to routine experimentation and optimization and discovery of an optimum value for a known process is obvious. In re Aller, 105 USPQ 233 (CCPA 1955). And, even if applicants' modification results in great improvement and utility over the prior art, it may still not be patentable if the modification was within the capabilities of one skilled in the art, In Re Sola 25 USPQ 433.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above references' teachings with porous anode film with specific capacitor voltage as taught by Beyen et al. or Greenwood, Jr. because porous anode film would increase the capacitance and voltage.

Conclusions

Applicant's arguments filed Nov. 22, 2006 have been fully considered but they are not persuasive. Because Beyen et al. clearly teaches at col. 14, line 60 forming a cold weld between connection member 195 and the foils 185/190 by forcing the connection member and the foil together between a hardened surface 207 and a staking pin 206, 211 which has a tip of less than or equal to approximately 0.174 mm (less than 0.762 mm) in diameter. Applicant contends that the reference's 0.174 mm is a typographical error since 0.06 inches is equal to 1.524 mm. This is not found persuasive because there is no reason to believe that any one can type 1.524 mm as 0.174 mm. Even if there is a typographical error, the more realistic error should be a missing "0" in 0.06 during typing. Therefore "0.06" should be "0.006". Using applicant's conversion "0.006" is equal to 0.1524 mm which is less than 0.762 mm as claimed in the instant invention. And, In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed

Art Unit: 2812

device was not patentably distinct from the prior art device. In re Rinehart, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976) ("mere scaling up of a prior art process capable of being scaled up, if such were the case, would not establish patentability in a claim to an old process so scaled." 531 F.2d at 1053, 189 USPQ at 148.). See MPEP 2144.04 § IV.

Applicant contends that Breyen does not discuss edge-connecting the anode connection member directly along an exposed end face of each of connection members as claimed. This is not found persuasive because Breyen clearly teaches at figs. 9-10 and col. 20, lines 55-65: In one method, it is preferred that the crimped anode and cathode feedthroughs be laser or ultrasonically **welded** along the top portion of the **trimmed edge** of the distal ends to anode and cathode tabs 232 and 233.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 2812

Any inquiry of a general nature or clerical matters or relating to the status of this application or proceeding should be directed to the customer service whose telephone number is (703) 308-4357.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. Jey Tsai whose telephone number is (571) 272-1684. The examiner can normally be reached on from 7:00 Am to 4:00 Pm., Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael S. Lebentritt can be reached on (571) 272-1873.

The fax phone number for this Group is 571-273-8300.

hjt

1/22/2007



H. Jey Tsai
Primary Examiner
Patent Examining Group 2800